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Louisiana Pacific

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CLERK, U. S. DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

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Attorneys for Plaintiff United States of America

IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

LOUISIANA-PACIFIC CORPORATION,

Defendant.

AND RELATED ACTIONS

CIV NO. S-89-0871 LKK

CONSENT DECREE

WHEREAS, the United States of America ("United States"), on
behalf of the Administrator of the United States Environmental
Protection Agency ("EPA"), filed a complaint against Louisiana-
Pacific Corporation ("LP") in this matter pursuant to Section 107

433

1 of the Comprehensive Environmental Response, Compensation,
2 Liability Act of 1980, 42 U.S.C. § 9607, as amended ("CERCLA");

3 WHEREAS, the United States in its complaint seeks
4 reimbursement of response costs incurred by the United States for
5 response actions taken in connection with the release or
6 threatened release of hazardous substances at LP's facility
7 located in Oroville, California, Butte County, California ("the
8 Site");

9 WHEREAS, in a final Record of Decision executed in August
10 1995, EPA concluded that no further remedial action was required
11 at the Site. The Record of Decision specifically states that the
12 institutional controls selected in the 1990 Interim Record of
13 Decision are no longer necessary and that no further monitoring
14 is required at the Site; and

15 WHEREAS, the parties to this Decree recognize, and the Court
16 by entering this Consent Decree finds, that this Consent Decree
17 has been negotiated by the parties in good faith and entry of
18 this Consent Decree will avoid prolonged and complicated
19 litigation between the parties, and that this Consent Decree is
20 fair, reasonable, and in the public interest.

21 THEREFORE, with the consent of the parties to this Decree,
22 it is ORDERED, ADJUDGED, AND DECREED:

23 1. This Court has subject matter jurisdiction pursuant to
24 28 U.S.C. §§ 1331 and 1345, and 42 U.S.C. §§ 9607 and 9613(b) and
25 personal jurisdiction over LP.

26 2. This Consent Decree is binding upon the United States
27 and upon LP and its successors and assigns. Any change in
28

1 ownership or corporate or other legal status, including but not
2 limited to any transfer of assets or real or personal property,
3 shall in no way alter LP's status or responsibilities under this
4 Consent Decree.

5 3. Within 10 days of entry of this Consent Decree, LP
6 shall pay to the United States \$3,475,000, in reimbursement of
7 response costs. "Response costs" as used herein shall mean all
8 costs of response as provided in Section 107(a)(1-4)(A) of
9 CERCLA, 42 U.S.C. §§ 9607(a)(1-4)(A), and as defined in Section
10 101(25) of CERCLA, 42 U.S.C. § 9601(25), including oversight
11 costs, that the United States has incurred to date of entry of
12 this Decree with respect to the Site, exclusive of costs that the
13 United States has the right to recover pursuant to consent
14 decrees executed with respect to the adjacent Koppers NPL Site.
15 Payment shall be made by FedWire Electronic Funds Transfer to the
16 U.S. Department of Justice account in accordance with current
17 electronic funds transfer procedures, referencing U.S.A.O. file
18 number 9302587, the EPA Region and Site/Spill ID #0976, and DOJ
19 case number 90-11-3-1016. Payment shall be made in accordance
20 with instructions provided to LP by the Financial Litigation Unit
21 of the United States Attorney's Office for the Eastern District
22 of California, following lodging of this Decree. LP shall send
23 notice to the following persons that such payment has been made
24 to the United States:

1 Chief, Environmental Enforcement Section
2 Environment and Natural Resources Division
3 U.S. Department of Justice
4 P.O. Box 7611
5 Ben Franklin Station
6 Washington, D.C. 20044
7 Re: 90-11-3-1016

8 Chief, Hazardous Waste Branch
9 Office of Regional Counsel
10 United States EPA, Region 9
11 75 Hawthorne Street
12 San Francisco, CA 94105

13 4. LP's payment in accordance with Paragraph 3 above shall
14 be in full satisfaction of the United States' claim for cost
15 recovery under CERCLA, as alleged in the complaint in this
16 matter, and this Consent Decree shall serve as a bar to
17 relitigation of said claims by the United States against LP.

18 5. In the event LP fails to make the payment required by
19 Paragraph 3 when due, interest shall continue to accrue on the
20 unpaid balance, through the date of payment, at the rate
21 specified for interest on investments of the Hazardous Substance
22 Superfund established pursuant to the Internal Revenue Code, 26
23 U.S.C. § 9507.

24 6. If the United States must bring an action to collect
25 any payment required by this consent decree, LP shall reimburse
26 the United States for all costs of such action, including but not
27 limited to costs of attorney time.

28 7. Payments made under Paragraphs 5 and 6 shall be in
addition to any other remedies or sanctions available to the
United States for LP's failure to make timely payments required
by this Decree.

1 8. The United States reserves, and this Consent Decree is
2 without prejudice to, all rights against LP with respect to all
3 other matters, including but not limited to, the following:

4 (1) liability arising from the past, present, or
5 future disposal, release, or threat of release of waste
6 materials outside of the Site;

7 (2) liability for damages for injury to, destruction
8 of, or loss of natural resources; and

9 (3) criminal liability.

10 "Waste material" as used herein shall mean (1) any "hazardous
11 substance" under Section 101(14) of CERCLA, 42 U.S.C. § 9601(14);
12 (2) any pollutant or contaminant under Section 101(33) of CERCLA,
13 42 U.S.C. § 9601(33); (3) any "solid waste" under Section
14 1004(27) of Resource Conservation and Recovery Act, 42 U.S.C.
15 § 6903(27); and (4) any "hazardous waste" under 22 Cal. Code of
16 Regulations Section 66600 et seq.

17 9. Notwithstanding any other provision of this Consent
18 Decree, the United States reserves, and this Consent Decree is
19 without prejudice to, the right to institute proceedings in this
20 action or in a new action, or to issue an administrative order
21 seeking to compel LP or any other party (1) to perform further
22 response actions relating to the Site or (2) to reimburse the
23 United States for additional costs of response if:

24 (i) conditions at the Site, previously unknown to EPA,
25 are discovered, or

26 (ii) information, previously unknown to EPA, is
27 received, in whole or in part,

1 and these previously unknown conditions or information together
2 with any other relevant information indicate that the no-action
3 remedy chosen at the Site is not protective of human health or
4 the environment. For purposes of this paragraph, the information
5 and the conditions known to EPA shall include only that
6 information and those conditions set forth in the interim and the
7 final Records of Decision, the administrative records supporting
8 both the interim and final Records of Decision, and the documents
9 produced and testimony given in the United States' cost recovery
10 action.

11 10. LP hereby covenants not to sue and agrees not to assert
12 any claims or causes of action against the United States with
13 respect to the Site or this Consent Decree, including, but not
14 limited to, the following:

15 a. any direct or indirect claim for reimbursement from the
16 Hazardous Substance Superfund (established pursuant to the
17 Internal Revenue Code, 26 U.S.C. § 9507) through CERCLA Sections
18 106(b)(2), 107, 111, 112, or 113, or any other provision of law;

19 b. any claims against the United States, including any
20 department, agency or instrumentality of the United States, under
21 CERCLA Sections 107 or 113, relating to the Site; or

22 c. any claims arising out of the activities of EPA, EPA
23 contractors and their subcontractors at the Site, including
24 claims based on EPA's response actions, oversight of response
25 activities or approval of plans for such activities.

26 11. Nothing in this Consent Decree shall be construed to
27 create any rights in, or grant any cause of action to, any person

1 not a party to this Consent Decree. The parties to this Decree
2 expressly reserve any and all rights (including, but not limited
3 to, any right to contribution), defenses, claims, demands, and
4 causes of action which each party may have with respect to any
5 matter, transaction, or occurrence relating in any way to the
6 Site against any person not a party hereto.

7 12. This Court shall retain jurisdiction of this matter for
8 the purpose of enforcing the terms of this Consent Decree. Once
9 LP makes the payments required under this Consent Decree, the
10 United States shall request the Court to terminate this Decree.
11 Termination of the Decree shall not affect the covenants and
12 reservations of rights, which shall remain in effect as an
13 agreement among the Parties.

14 13. LP's undersigned representative and the Assistant
15 Attorney General for the Environment and Natural Resources
16 Division of the United States Department of Justice certifies
17 that he or she is fully authorized to enter into the terms and
18 conditions of this Consent Decree and to execute and legally bind
19 such party to this document.

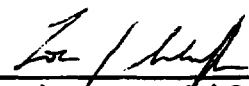
20 SO ORDERED THIS 2 DAY OF January, 1996 *Wey*

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24 Lawrence K. Karlton
25 Chief Judge Emeritus
26 United States District Court
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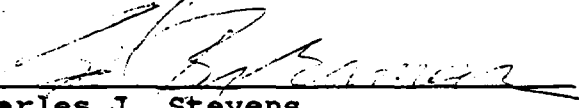
1 THE UNDERSIGNED PARTIES enter into this Consent Decree in the
2 matter of United States v. Louisiana-Pacific Corporation, CIV. S-
89-871 LKK, relating to the Oroville Superfund Site.

3 FOR THE UNITED STATES OF AMERICA

4 Date: 12/28/95


5 Lois J. Schiffer
6 Assistant Attorney General
7 Environment and Natural Resources
8 Division
9 U.S. Department of Justice
10 Washington, D.C. 20530

11 Helen H. Kang
12 David B. Glazer
13 Environmental Enforcement Section
14 Environment and Natural Resources
15 Division


16 Charles J. Stevens
17 United States Attorney
18 Eastern District of California
19 Edmund Brennan
20 Assistant United States Attorney
21
22
23
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89-871 LKK, relating to the Oroville Superfund Site.


3 FOR THE UNITED STATES OF AMERICA

4 Date: _____

5 Lois J. Schiffer
6 Assistant Attorney General
7 Environment and Natural Resources
8 Division
9 U.S. Department of Justice
Washington, D.C. 20530

10 Helen H. Kang
11 David B. Glazer
12 Environmental Enforcement Section
13 Environment and Natural Resources
14 Division

15 Charles J. Stevens
16 United States Attorney
17 Eastern District of California
18 Edmund Brennan
19 Assistant United States Attorney



Felicia Marcus
Regional Administrator
Region 9
U.S. Environmental Protection
Agency

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89-871 LKK, relating to the Oroville Superfund Site.

3 FOR DEFENDANT
4 LOUISIANA-PACIFIC CORPORATION

5 Date: 12-22-95

6 DR Kay
Donald R. Kay
Chairman and Chief Executive Officer

VC

United States District Court
for the
Eastern District of California
January 18, 1996

* * CERTIFICATE OF SERVICE * *

2:89-cv-00871

Louisiana-Pacific Co

v.

Beazer Materials & S

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Eastern District of California.

That on January 18, 1996, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

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California State Attorney General
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SJ/LKK

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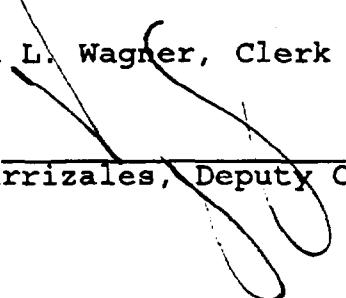
X CC

~~Helen H. Kang~~
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Jack L. Wagner, Clerk

BY: 
V Carrizales, Deputy Clerk